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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/572,350

11/27/2006

Werner Klement

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03/24/2009

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EXAMINER

LE, DAVID D

ART UNIT

PAPER NUMBER

3655

MAIL DATE

DELIVERY MODE

03/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/572,350	Applicant(s) KLEMENT, WERNER	
	Examiner David D. Le	Art Unit 3655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/17/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first Office action on the merits of Application No. 10/572,350, filed on 27 November 2006. Claims 23-44 are pending.

Documents

2. The following documents have been received and filed as part of the patent application:
 - Foreign Priority Document, received on 03/17/06
 - Information Disclosure Statement, received on 03/17/06
 - Declaration and Power of Attorney, received on 11/27/06

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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4. The abstract of the disclosure is objected to because it exceeds 150 words and contains legal phraseology “means”. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 25, 27, 28, 30-37 and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 25, 27 and 28:

- Claim 25 recites the limitation "the shifting elements". There is insufficient antecedent basis for this limitation in the claim.

Claim 30:

- Line 17 recites the limitation "the points". There is insufficient antecedent basis for this limitation in the claim.
- Lines 18-20 recite the limitation “the connection of the first or second back gear to the output or the input of the starting element”. This limitation appears to be in conflict with lines 3-9 of claim 30, which recite “a first back gear is connected to the output of the starting element in a rotationally fixed manner and a second back

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gear is connected to the input of the starting element in a rotationally fixed manner”.

- Lines 21-22 recite the limitation “the coupling of the first and/or second back gear to the respective back-gear shaft”. It is unclear whether the recited limitation “second back gear” followed the term “and/or” is part of the claimed limitation.
- Lines 23-26, recite the limitation “the coupling of the back gear, connected to the output, to the respective back-gear shaft; the coupling of the back gear connected to the output”. It is unclear what this claimed limitation is referring to. Furthermore, it is unclear whether the limitation "the back gear" is referring to the first back gear or the second back gear. Also, it is unclear whether the limitation “the output” is referring to the output of the gearbox or the output of the gearshifting device.

Claim 31:

- Line 2 recites the limitation “the back gear”. It is unclear whether the limitation is referring to the first back gear or the second back gear.

Claim 32:

- Line 2 recites the limitation "the individual back gears". There is insufficient antecedent basis for this limitation in the claim.

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Claim 33:

- Lines 3-4 and 8 recite the limitation “the two back gears”. It is unclear whether the limitation is referring to the first and second back gears.
- Line 9 recites the limitation “the output”. It is unclear whether the limitation “the output” is referring to the output of the gearbox or the output of the gearshifting device.

Claim 36:

- Line 4 recites the limitation "the back-gear shafts". There is insufficient antecedent basis for this limitation in the claim.
- Lines 4-5 recite the limitation “the back gears”. It is unclear which back gears that the claimed limitation is referring to.

Claim 37:

- Lines 3-4 recite the limitation “the back gears”. It is unclear which back gears that the claimed limitation is referring to.

Claim 44:

- Line 5 recites the limitation “it”. It is unclear what the limitation “it” is referring to.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 23, 24, 26, 29-40 and 42-44, as best understood, are rejected under 35

U.S.C. 102(b) as being anticipated by U. S. Patent No. 4,375,171 to Morscheck (hereinafter referred to as Morscheck).

Claims 23, 24, 26, 29-40 and 42-44:

Morscheck (Figs. 1-5; column 2, line 40 – column 10, line 37) discloses a gearbox (i.e., Fig. 1, element 10) comprising:

- A gearbox input (i.e., Fig. 1, element 12);
- A gearbox output (i.e., Fig. 1, element 20);
- A starting element (i.e., Fig. 1, element 16);
- Wherein the starting element includes an input (i.e., Fig. 1, element 22a) and an output (i.e., Fig. 1, element 22b);
- A gearshifting device (i.e., Fig. 1, element 18);
- Wherein the gearshifting device includes:
 - A first input (i.e., Fig. 1, element 26) connected to the output of the starting element;
 - A second input (i.e., Fig. 1, element 13) connected to the input of the starting element;

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- An output (i.e., Fig. 1, element 68) connectable to the gearbox output (20);
- Wherein each of the first and second inputs of the gearshifting device can be selectively connected via a synchronously shiftable coupling (i.e., Fig. 1, element 42) to the output of the gearshifting device producing a first power branch and a second power branch;
- Wherein the synchronously shiftable coupling enables power to flow via the power branches, respectively;
- Wherein the output of the gearshifting device is connected via an rpm/torque converting device (i.e., Fig. 1, element 48) to the gearbox output;
- Wherein all switched gears (i.e., Fig. 1, elements 44 and 46) are free of any power transmission subject to slip;
- Wherein the first and second power branches are arranged at least partially parallel to each other and, over a portion, parallel to the starting element (i.e., Fig. 1);
- Wherein the gearshifting device includes:
 - A first driving gear (i.e., Fig. 1, element 50) fixedly connected to the output of the starting element;
 - A second driving gear (i.e., Fig. 1, element 52) fixedly connected to the input of the starting element;
- Wherein each of the first and second driving gears is operatively connected to a corresponding first and second driven gears (i.e., Fig. 1, elements 44 and 46) supported on a driven gear-shaft (i.e., Fig. 1, element 40);

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- Wherein the gears are designed as spur gears (i.e., Fig. 1);
- Wherein the first and second driving gears are arranged coaxially and parallel to each other (i.e., Fig. 1);
- Wherein a first driving gear shaft is a hollow shaft and a second driving gear shaft is passed through the first driving gear shaft (i.e., Fig. 1);
- Wherein the starting element is a hydrodynamic rpm/torque converter (i.e., Fig. 1); and
- Wherein a braking device (i.e., Fig. 1, element 30) is operably connected with the output of the starting element.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 25, 27, 28 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morscheck in view of U. S. Patent No. 7,070,534 to Pelouch (hereinafter referred to as Pelouch).

Claims 25, 27, 28 and 41:

Morscheck discloses the limitations as set forth above. Regarding claims 25, 27, 28 and 41, Morscheck lacks:

- Wherein the rpm/torque converting device is a synchronously shiftable coupling or a positively locking clutch or a claw clutch; or

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- Wherein the rpm/torque converting device is constructed in a gear design.

Pelouch (i.e., Fig. 1; column 2, line 4 – column 4, line 18), on the other hand, teaches a powertrain (i.e., Fig. 1, element 10) comprising:

- An rpm/torque converting device (first interpretation, i.e., Fig. 1, element 80) being a synchronously shiftable coupling or a positively locking clutch or a claw clutch; or
- An rpm/torque converting device (second interpretation, i.e., Fig. 1, being the gearing elements of the splitter section of the powertrain 10).

Since all the claimed elements were known in the prior art, one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Note:

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Stevenson (U. S. Patent No. 7,263,907) teaches a transmission, as shown in Fig. 1.
- Kobayashi (U. S. Patent No. 6,860,168) teaches a transmission, as shown in Fig. 9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/
Primary Examiner, Art Unit 3655
03/20/2009

ddl